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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2009 67615

LEENDA LA CONTE, PT
6844 Balcon Avenue
Reseda, California 91335

A C C U S A T I O N

Physical Therapist License No. 29164,
Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California (Board).

2. On or about February 11, 2004, the Board issued Physical Therapist License number 29164 to Leenda La Conte (Respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2011, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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Code states:

ard of California, hereafter referred to as the board, shall enforce

and administer this chapter. . . .ö

5. Section 2609 of the Code states:

"The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter."

6. Section 2660 of the Code states:

"The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

. . .

"(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapist assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

. . .

"(h) Conviction of a violation of any of the provisions of this chapter or of the Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the Medical Practice Act.

. . .ö

7. Section 2239 of the Code states:

ö(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any

unprofessional conduct. The record of the conviction is
professional conduct.

3 (b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed
4 to be a conviction within the meaning of this section. . . ð

5 8. Section 2661.5 of the Code states:

6 "(a) In any order issued in resolution of a disciplinary proceeding before the board, the
7 board may request the administrative law judge to direct any licensee found guilty of
8 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of
9 the investigation and prosecution of the case.

10 . . .

11 "(d) In any judicial action for the recovery of costs, proof of the board's decision shall be
12 conclusive proof of the validity of the order of payment and the terms for payment.

13 . . .

14 9. Section 2661 of the Code states:

15 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
16 charge of a felony or of any offense which substantially relates to the qualifications, functions, or
17 duties of a physical therapist is deemed to be a conviction within the meaning of this article. The
18 board may order the license suspended or revoked, or may decline to issue a license, when the
19 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when
20 an order granting probation is made suspending the imposition of sentence, irrespective of a
21 subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or
22 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
23 dismissing the accusation, information, or indictment."

24 10. Section 2666 of the Code states:

25 "(a) Criteria for acceptance into the diversion program shall include all of the following:

26 "(1) The applicant shall be licensed as a physical therapist or approved as a physical
27 therapist assistant by the board and shall be a resident of California.

28

found to abuse dangerous drugs or alcoholic beverages in a
her ability to practice physical therapy safely or competently.

"(3) The applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action.

"(4) The applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program.

"(5) The applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program.

"(6) The applicant shall agree in writing to cooperate with all elements of the treatment program designed for him or her. Any applicant may be denied participation in the program if the board, its designee, or a diversion evaluation committee, as the case may be, determines that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety, or welfare.

"(b) A participant may be terminated from the program for any of the following reasons:

"(1) The participant has successfully completed the treatment program.

"(2) The participant has failed to comply with the treatment program designated for him or her.

"(3) The participant fails to meet any of the criteria set forth in subdivision (a) or (c).

"(4) It is determined that the participant has not substantially benefitted from participation in the program or that his or her continued participation in the program creates too great a risk to the public health, safety, or welfare. Whenever an applicant is denied participation in the program or a participant is terminated from the program for any reason other than successful completion of the program, and it is determined that the continued practice of physical therapy by that individual creates too great a risk to the public health, safety, and welfare, that fact shall be reported to the executive officer of the board and all documents and information pertaining to and supporting that conclusion shall be provided to the executive officer. The matter may be referred



action by the board. Each physical therapist or physical therapy assistant in a diversion program shall agree to cooperate with the recovery program designed for him or her. Any failure to comply with that program may result in termination of participation in the program. The diversion evaluation committee shall inform each participant in the program of the procedures followed in the program, of the rights and responsibilities of a physical therapist or physical therapy assistant in the program, and the possible results of noncompliance with the program.

"(c) In addition to the criteria and causes set forth in subdivision (a), the board may set forth in its regulations additional criteria for admission to the program or causes for termination from the program."

11. Section 2667 of the Code states:

"All board and diversion evaluation committee records and records of proceedings and participation of a physical therapist or physical therapy assistant in a program shall be confidential and are not subject to discovery or subpoena."

12. Section 2669 of the Code states that participation in a diversion program shall not be a defense to any disciplinary action which may be taken by the board. This section does not preclude the board from commencing disciplinary action against a physical therapist or physical therapist assistant who is terminated unsuccessfully from the program under this section. That disciplinary action may not include as evidence any confidential information.

13. California Code of Regulations, title 16, section 1399.20, states:

"For the purposes of denial, suspension or revocation of a license, pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under the Physical Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a person to perform the functions authorized by the license or approval in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following:

g to violate, directly or indirectly, or assisting in or abetting the
late any provision or term of the Physical Therapy Practice Act.

"(b) Conviction of a crime involving fiscal dishonesty arising out of or in connection with
the practice of physical therapy.

"(c) Violating or attempting to violate any provision or term of the Medical Practice Act."

14. Section 125.3 of the Code provides, in pertinent part, that the
Board/Registrar/Director may request the administrative law judge to direct a licensee found to
have committed a violation or violations of the licensing act to pay a sum not to exceed the
reasonable costs of the investigation and enforcement of the case.

15. Section 482 of the Code states:

"Each board under the provisions of this code shall develop criteria to evaluate the
rehabilitation of a person when:

"(a) Considering the denial of a license by the board under Section 480; or

"(b) Considering suspension or revocation of a license under Section 490.

"Each board shall take into account all competent evidence of rehabilitation furnished by
the applicant or licensee."

16. Section 490 of the Code provides, in pertinent part, that a board may suspend or
revoke a license on the ground that the licensee has been convicted of a crime substantially
related to the qualifications, functions, or duties of the business or profession for which the
license was issued.

17. California Code of Regulations, Title 16, section 1399.22 states:

When considering the suspension or revocation of a license on the ground that a person
holding a license under the Physical Therapy Practice Act has been convicted of a crime, the
board in evaluating the rehabilitation of such person and his or her eligibility for a license shall
consider the following criteria:

(a) The nature and severity of the act(s) or offense(s).

(b) The total criminal record.

(c) The time that has elapsed since commission of the act(s) or offense(s).

as complied with any terms of parole, probation, restitution or
posed against such person.

(e) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the
Penal Code.

(f) Evidence, if any, of rehabilitation submitted by the licensee.ö

18. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within
the department pursuant to law to deny an application for a license or to suspend or revoke a
license or otherwise take disciplinary action against a person who holds a license, upon the
ground that the applicant or the licensee has been convicted of a crime substantially related to the
qualifications, functions, and duties of the licensee in question, the record of conviction of the
crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
and the board may inquire into the circumstances surrounding the commission of the crime in
order to fix the degree of discipline or to determine if the conviction is substantially related to the
qualifications, functions, and duties of the licensee in question.

"As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
'registration.'"

FIRST CAUSE FOR DISCIPLINE

(2003 Conviction for Driving Under the Influence)

19. Respondent is subject to disciplinary action under sections 2660, subdivision (d) and
490 in that she was convicted of a crime substantially related to the practice of physical therapy,
to wit, driving while having a blood-alcohol content exceeding 0.08 percent, in violation of
California Vehicle Code section 23152, subd. (b), a misdemeanor. She was convicted in a
criminal proceeding entitled *People of the State of California v. Leenda Maria La Conte* in Los
Angeles Superior Court, Case Number 3VN02757, Respondent was convicted on or around
August 13, 2003.

20. Pursuant to a plea agreement, Respondent's sentence was suspended. She was placed
on summary probation for a period of thirty-six months (three years) with various terms and

a three month licensed first-offender alcohol and drug education
fines and restitution, completing a Hospital and Morgue program

and an essay, and, for ninety days, restricting her driving to going to and from work and/or
program.

21. Respondent's 2003 conviction was based on her driving on or around June 28, 2003.
She was driving home from a friend's house with a blood alcohol content of 0.17 percent at 85
miles per hour.

SECOND CAUSE FOR DISCIPLINE

(2009 Conviction for Driving Under the Influence)

22. Respondent is subject to disciplinary action under sections 2660, subdivision (d) and
490 in that she was convicted of a crime substantially related to the practice of physical therapy,
to wit, violation of California Vehicle Code section 23152, subd. (a), a misdemeanor. On or
around July 17, 2009, in proceedings entitled *People vs. Leenda Maria Laconte*, in Ventura
County Superior Court, Case Number 2008031185MA, Respondent was convicted of violating
Vehicle Code section 23152(a), driving under the influence of alcohol or drugs. The Court also
found true the enhancements of: (1) driving with a blood alcohol content of 0.20 percent or more,
and (2) driving with a blood alcohol content of .15 or more.

23. Based on a plea agreement, imposition of sentence was suspended and Respondent
was placed on formal probation for sixty months (five years) of formal probation. Terms of the
probation include: reporting to and being under the supervision of a probation officer;
maintaining regular employment as approved by the probation officer; not leaving her county of
residence for over seventy-two hours or changing her residence without reporting to her probation
officer; not leaving the state of California without permission from her probation officer;
participating in treatment program designated by her probation officer; not drinking or possessing
any alcoholic beverages; not being where alcohol is the chief item of sale; submitting to complete
tests of her breath, blood, urine when requested to by a peace officer or probation officer;
reporting immediately to the "Drinking Driver Program (Multiple Conviction Program" (previously SB 38)); consenting to a search of her person, residence, vehicle, business or any



er control for alcoholic beverages by a probation officer or law
or owning any motor vehicle unless it is equipped with a

certified, calibrated and functioning ignition interlock device; not driving any vehicle until
obtaining a valid license; paying numerous fines, penalties and restitution; serving thirty days in
the Ventura County Jail.

24. The circumstances of the 2009 conviction are alleged to be that on or about June 21,
2008, Respondent was at a friend's house. She drank a lot of wine and some vodka. In the
morning hours of June 22, 2008, she drove her vehicle while having a blood alcohol content
exceeding 0.20 percent. She drove through a canyon and caused a car accident. Her vehicle
landed upside down. She was pulled from her vehicle's window and taken to the hospital. She
required a spinal fusion of five vertebrae.

THIRD CAUSE FOR DISCIPLINE

(Bus. & Prof. Code section 2239(a): Conviction of More Than One Misdemeanor)

25. Respondent is further subject to disciplinary action under sections section 2239,
subdivision (a) for having been convicted of more than one misdemeanor involving the use,
consumption of alcoholic beverages, as set forth in the First and Second Causes for Discipline.

FOURTH CAUSE FOR DISCIPLINE

(Bus. & Prof. Code section 2239: Excessive Use of Drugs/Alcohol in 2003 and 2008)

26. Respondent is further subject to disciplinary action under sections section 2660,
subdivision (h) in that she violated section 2239 by using alcoholic beverages to the extent, or in
such a manner as to be dangerous or injurious to herself, any other person or the public, more
specifically by twice operating a motor vehicle on a public roadway while under the influence of
alcohol. The circumstances are as set forth in the First and Second Causes for Discipline.

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PRAYER

Complainant requests that a hearing be held on the matters herein alleged,

and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending PT Number 29164, issued Leenda La Conte.
2. Ordering her to pay the Board the reasonable costs of the investigation and enforcement of this case, and if placed on probation, the costs of monitoring.
3. Taking such other and further action as deemed necessary and proper.

DATED: July 23, 2010

Original Signed By:

STEVEN K. HARTZELL

Executive Officer

Physical Therapy Board of California

Department of Consumer Affairs

State of California

Complainant

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